IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 386 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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SAVYASCHI EDUCATION TRUST

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION

Appearance:

1. Special Civil Application No. 386 of 2002

M/S.VYAS ASSOCIATES for Petitioner No. 1

MR PK JANI for Respondent No. 1

MR K.P. RAWAL, A.G.P for Respondent No. 2-3

CORAM : MR.JUSTICE A.R.DAVE

Date of decision: 06/05/2002

ORAL JUDGEMENT

Rule. Service of rule is waived by learned A.G.P Shri K.P. Rawal for respondents nos. 2 & 3 and by learned advocate Shri P.K. Jani for respondent no. 1.

At the request of the learned advocates, the petition is finally heard today.

2. The petitioner is a trust which is desirous of starting a college where degree of P.T.C can be conferred upon the students. For the purpose of starting a college, the petitioner trust had submitted an application dated 21st November, 2001 to respondent no. 3. The said application for `No Objection Certificate' has been rejected by respondent no. 3 under his order dated 29th December, 2001. The petitioner has been aggrieved by the said order and has, therefore, approached this Court with a prayer that the said order dated 29th December, 2001 be quashed and set aside, and respondent no. 3 be directed to grant `No Objection Certificate' to the petitioner and respondent no. 1 be also directed to accept the form which might be submitted by the petitioner. Senior Advocate Shri D.D. Vyas has submitted that the reasons which have been stated in the order dated 29th December, 2001 whereby the petitioner has been denied `No Objection Certificate' are not correct. It has been submitted by him that sufficient material had been produced by the petitioner before respondent no. 3, and the said material has also been produced before this Court, so as to show to this Court that there was no reason for respondent no. 3 to deny grant of `No Objection Certificate' in favour of the petitioner. For giving an illustration, it has been submitted by the Senior advocate that in paragraph 2 of the impugned order it has been stated that `no evidence or details' with regard to land by the petitioner had been showed to respondent no. 3. As a matter of fact, it has been submitted by the Senior advocate that necessary documents showing ownership in respect of the land had been submitted to respondent no. 3. In fact, the petitioner trust is an owner of the land, and on the said land one educational Institution is already there. It has been submitted that in the building which is to be used for the purpose of imparting education, at present an Institution is being managed by the petitioner trust where the students are given education for B.Ed. studies. It has been submitted that the petitioner is already having land and the said fact has been duly informed to the respondent authority.

3. Similarly, it has been submitted by the Senior advocate that the building which is being used at present by the petitioner is as per the norms set up by National Council of Teacher Education and in fact National Council of Teacher Education has already held that the said building is as per its norms, because for running another

course, National Council of Teacher Education has already given necessary permission to the petitioner.

4. It has been also submitted that as per the Regulation No. 16 framed under the National Council for Teacher Education Act, 1993, if one or more courses in teacher education are run by the same Institute in the same building/complex, the facilities in terms of building, hall, library, hospitals equipments, play fields etc. may be shared in a reasonable manner. On the basis of the said provision and in view of the fact that the petitioner is having other courses in teacher education in the premises in which it wants to run course of P.T.C., it would not be necessary for the petitioner Institute to have a separate library and other equipments etc. It has been submitted by him that the said fact has not been duly considered by respondent no. 3 while taking the final decision on the application for `No Objection Certificate' submitted by the petitioner.

5. On the other hand, learned A.G.P. Shri K.P. Rawal has submitted that as per the provisions of the Gujarat Educational Institutions (Regulation) Act, 1984, respondent no. 3 has to see whether the facilities which are available with the petitioner are as per the norms prescribed under the said Regulation. It has been submitted by him that as the petitioner Institute is not having sufficient facilities, the application has been rejected.

6. Learned advocate Shri P.K. Jani appearing for respondent no. 1 has submitted that it is not for respondent no. 3 to examine whether the premises wherein the course has to be conducted is as per the norms set up by National Council of Teacher Education, because it would be the function of respondent no. 1 to examine whether the set up which is available with the petitioner is up to the mark or is as per the norms prescribed by respondent no. 1. From what has been submitted by learned advocate Shri P.K. Jani, it appears that what is more important for respondent no. 3 is to examine whether there is a need for having an Institute which can run P.T.C. college. It appears that the said factor has not been considered by respondent no. 3 at all. According to him, respondent no. 3 has to see whether there is a need for P.T.C. college, and if respondent no. 3 is satisfied that there is a need for P.T.C. College, ` No Objection Certificate' should be granted and, thereafter, other things with regard to basic facilities which are required for running an educational Institute etc. are to be examined by respondent no. 1.

7. It has been also submitted by learned advocate Shri P.K. Jani that, at this stage, it would not be possible for respondent no. 1 to grant permission to start P.T.C. college for academic year 2002-03, even if `No Objection Certificate' is given by respondent no. 3 because, after receipt of `No Objection Certificate', respondent no. 1 will have to examine several factors and the said process might take some time and, therefore, according to him, it would not be possible for respondent no. 1 to give necessary permission to the petitioner to run course of P.T.C. for academic year 2002-2003.

8. Upon hearing the learned advocates, prima facie, it appears that all relevant factors have not been duly considered by respondent no. 3 while rejecting the application submitted by the petitioner. As the petitioner Institution is already having a building on the land belonging to the petitioner, it cannot be said that the petitioner Institution is not having sufficient land. Of course, respondent no. 3 has to examine whether the building wherein P.T.C. course is to be run by the petitioner would be sufficient enough to manage both the courses or the educational courses which the Institution proposes to manage. It also appears that the documents showing title of the land belonging to the petitioner has not been properly examined. Moreover, library, furniture, etc. are already there in the premises wherein the P.T.C. course is to be run. Thus, it appears that the impugned order has not been passed after considering all the relevant factors.

9. Looking to the facts of the case, and after hearing the learned advocates, it appears that all relevant factors have not been duly considered by respondent no. 3 and, therefore, the entire matter requires to be reconsidered by respondent no. 3. If he comes to a conclusion that `No Objection Certificate' cannot be granted, he shall record the reasons in detail and he shall also give due opportunity to the petitioner to produce material which he considers to be necessary for the purpose of taking a final decision for giving `No Objection Certificate' or otherwise.

10. In the circumstances, the impugned order dated 29th December, 2001 is quashed and set aside and respondent no. 3 is directed to reconsider the application dated 21st November, 2001 submitted by the petitioner in accordance with law for grant of `No Objection Certificate'. I am sure that the said application shall be considered and decided as soon as

possible and preferably within two months from the receipt of this order.

Rule is made absolute with no order as to costs.
Direct service is permitted.

(A.R. DAVE,J.)

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